

Mar-21-02 03:45pm From-BST&Z Service Services

408 947 8280

T-118 P.004/008 F-598

O I P E
MAR 21 2002
ENT & TRADEMARK OF

EXHIBIT A

RECEIVED

MAR 26 2002

Technology Center 2100

COPY



1 HAROLD J. McELHINNY (BAR NO. 66781)
 MICHAEL A. JACOBS (BAR NO. 111664)
 GEORGE C. HARRIS (BAR NO. 111074)
 MORRISON & FOERSTER LLP
 425 Market Street
 San Francisco, California 94105-2482
 Telephone: (415) 268-7000
 Fax: (415) 268-7522

5
 6 Attorneys for Plaintiff
 OPENTV, INC.
 7

RECEIVED

MAR 26 2002

Technology Center 2100 NORTHERN DISTRICT OF CALIFORNIA
 OAKLAND

ORIGINAL
 FILED

FEB - 7 2002

RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 OAKLAND

8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA
 10
 11 OPENTV, INC., a Delaware corporation,
 12 Plaintiff,
 13 v.
 14 LIBERATE TECHNOLOGIES, a Delaware
 15 corporation,
 16 Defendant.

No. C 02 0655 JL
 COMPLAINT FOR PATENT
 INFRINGEMENT
 DEMAND FOR JURY TRIAL

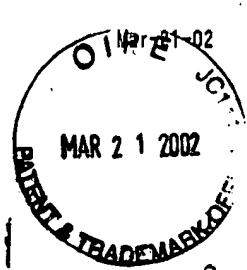
17 Plaintiff OpenTV, Inc. ("OpenTV"), as its Complaint against Defendant Liberate
 18 Technologies ("Liberate"), alleges as follows:

PARTIES

20 1. OpenTV is a corporation incorporated under the laws of Delaware, with its principal
 21 place of business at 401 East Middlefield Road, Mountain View, California 94043.
 22 2. Liberate is a corporation incorporated under the laws of Delaware, with its principal
 23 place of business at 2 Circle Star Center, San Carlos, California 94070.

JURISDICTION AND VENUE

25 3. This action arises under the patent laws of the United States, Title 35 of the United States
 26 Code. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C.
 27 §§ 1338(a) (action arising under an Act of Congress relating to patents) and 1331 (federal question)
 28 and 35 U.S.C. § 281.



MAR 21 2002

4. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1331(b), 1331(c) and
2 1400(b), in that Liberate resides in this district, is subject to personal jurisdiction in this district and
3 has committed acts of infringement in this district.

4 **PRELIMINARY STATEMENT**

5 5. OpenTV is one of the world's leading interactive television technology companies.
6 OpenTV builds a complete "middleware" platform that enables digital interactive television.

7 6. OpenTV is the sole owner of numerous United States Patents in the field of digital
8 interactive television, including: United States Patent No. 5,563,648, issued on October 8, 1996 (the
9 "648 patent"), which is attached hereto as Exhibit A; and United States Patent No. 5,819,034, issued
10 on October 6, 1998 (the "034 patent"), which is attached hereto as Exhibit B. The '648 patent and
11 the '034 patent are referred to collectively herein as "the OpenTV patents."

12 7. Liberate competes against OpenTV in the interactive television market, developing and
13 marketing interactive television middleware platforms under the Liberate name. OpenTV has not
14 licensed Liberate under the OpenTV patents.

15 **PATENT INFRINGEMENT BY LIBERATE**

16 8. OpenTV is informed and believes, and on that basis alleges, that Liberate has infringed
17 and continues to infringe, directly or indirectly, the OpenTV patents by its unlicensed use, promotion,
18 manufacture, and offering for sale, in this judicial district and elsewhere in the United States, of
19 interactive television middleware.

20 9. OpenTV is informed and believes, and on that basis alleges, that Liberate's infringement
21 of the OpenTV patents has been and will continue to be willful.

22 10. OpenTV is damaged and irreparably injured by Liberate's infringing activities and will
23 continue to be so damaged and irreparably injured unless Liberate's infringing activities are enjoined
24 by this Court.

RECEIVED

MAR 26 2002

25 **PRAYER FOR RELIEF**

26 WHEREFORE, OpenTV requests that the Court:

27 A. Enter judgment that OpenTV is the owner of the OpenTV patents and all rights of
28 recovery under each of them, and that each of those patents was duly issued and is valid;

Mar-21-02

03:46pm From-BST&Z Service Services

408 947 6280

T-118 P.007/008 F-598



- 2 B. Enter judgment that Liberate has infringed the OpenTV patents, directly or indirectly;
- 3 C. Preliminarily and permanently enjoin Liberate, its officers, agents, servants,
- 4 employees and those in concert or participation with them, from any unlicensed use of the inventions
- 5 claimed in the OpenTV patents;
- 6 D. Award OpenTV damages as compensation for Liberate's infringement of the OpenTV
- 7 patents, such award to include prejudgment interest;
- 8 E. Treble such award of damages due to the willful nature of Liberate's infringement of
- 9 the OpenTV patents;
- 10 F. Declare that this is an exceptional case under 35 U.S.C. § 285 and award OpenTV its
- 11 attorneys' fees and expenses in this action;
- 12 G. Award OpenTV its costs in this action; and
- 13 H. Enter such other and further relief to which OpenTV may be entitled as a matter of
- 14 law, or which may otherwise be just and proper.

Dated: February 7, 2002

HAROLD McELHINNY
MICHAEL A. JACOBS
GEORGE C. HARRIS
MORRISON & FOERSTER LLP

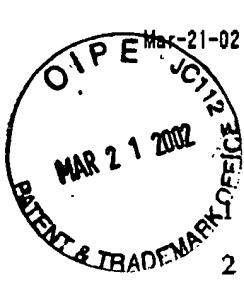
By: Michael A. Jacobs

Attorneys for Plaintiff
OPENTV, INC.

RECEIVED

MAR 26 2002

Technology Center 2100



Mar 21-02 03:46pm From-BST&Z Service Services

408 947 8280

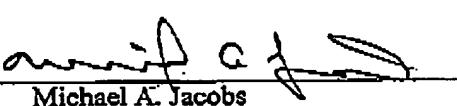
T-118 P.008/008 F-598

DEMAND FOR JURY TRIAL

2 Plaintiff OpenTV hereby demands trial by jury of all claims and counterclaims in this action
3 for which there is a right to trial by jury.

4 Dated: February 7, 2002

5 HAROLD McELHINNY
6 MICHAEL A. JACOBS
7 GEORGE C. HARRIS
8 MORRISON & FOERSTER LLP

9 By: 
Michael A. Jacobs

10 Attorneys for Plaintiff
11 OPENTV, INC.

12 RECEIVED
13 MAR 26 2002
14 Technology Center 2100
15
16
17
18
19
20
21
22
23
24
25
26
27
28